

Thursday, 15 April 1948

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Chambers of the Tribunal
War Ministry Building
Tokyo, Japan

PROCEEDINGS IN CHAMBERS

On

Papers Nos. 1667, 1673, 1676, 1680, 1683,
and 1684, being applications on behalf of the
defense for leave to withdraw from the files of
the Tribunal certain court exhibits for identifi-
cation and other documents.

Before:

HON. SIR WILLIAM WEBB
President of the Tribunal and
Member from the Commonwealth of
Australia.

Reported by:

Daphne Spratt
Court Reporter
IMTFE

Appearances:

For the Prosecution Section:

Mr. Frank S. Tavenner, Jr.

For the Defense Section:

Mr. Ben Bruce Blekeney

Mr. Owen Cunningham

Mr. George F. Blowett

Dr. Ichiro KIYOSHI

Mr. F. N. Warren

For the Secretariat:

Mr. Paul Lynch, Clerk of the Court

The proceeding was begun at 1315.

THE PRESIDENT: Paper 1667 is an application on behalf of the defense, by Mr. B. Bruce Blakeney, for leave to withdraw from the files exhibits for identification 2473, 2447, 2446. Is there any objection, Mr. Tavenner?

MR. TAVENNER: We object to the withdrawal of any of them where admitted in evidence as distinguished from those as being in evidence for identification only. I am certain that the last one, 2446, was not offered for identification only but was admitted in evidence.

THE PRESIDENT: Can you say, Mr. Blakeney, off-hand, whether the first and second were?

MR. BLAKENEY: No, I can't. I merely filed the application on request because I had been responsible for introducing those documents.

THE PRESIDENT: Why shouldn't a book be returned?

MR. BLAKENEY: I understand they are books from the Imperial Library.

THE PRESIDENT: The book is called "Opium Agreement 1925."

MR. TAVENNER: As part of the evidence and for historical purposes, it ought to be permitted to

remain there.

THE PRESIDENT: I have made orders to return the others.

MR. TAVENNER: But I think they were offered for identification only.

THE PRESIDENT: I am not sure -- unless I made an order for the return at some time it amounts to confiscation for record purposes.

MR. BLAKENEY: Of course we could readily prepare copies for any of those that are in reference to the case; in fact, we have done so in preparing our excerpts.

THE PRESIDENT: Well, make an order for the return of the two exhibits offered for identification, and I will defer the application for the return of the book, "Opium Agreement 1925," for further consideration.

Now, this is an application by Mr. Cunningham. This is Paper 1673, an application by Mr. Cunningham, for the accused OSHIMA, for permission to withdraw a number of affidavits, being exhibits 2762, 2744, 3503, and 2765B.

I could never agree to that. All you are entitled to would be to make copies. This is different. The application is refused. But I will give you

permission to make copies, photostatic copies if necessary, Mr. Cunningham.

MR. CUNNINGHAM: Well, I have photostatic copies that I will offer to substitute for the originals.

THE PRESIDENT: We must have the originals.

MR. CUNNINGHAM: You see they will microfilm all the exhibits, and as soon as they do that the exhibits will no longer be of any value in this case.

THE PRESIDENT: But the affidavits are different.

This is an application on behalf of the defense by Mr. Logan for the withdrawal of court exhibits for identification, being marked 2771, 2772, 2413, 2774, 2777, 2778, 2780, 2781, 2785, 2794, 2795, and 2796. They were borrowed by the defense from the Tokyo Bar Association Library. They were all for identification only.

Is there any objection, Mr. Tavenner?

MR. TAVENNER: No. I object to those -- and there are three of them -- that are in evidence, and the rest are only for identification. We object to the withdrawal from the record of those that were introduced in evidence, at least at this time. Those that were admitted in evidence are exhibits 2413, 2785, and 2794.

THE PRESIDENT: Well, with the exception of those three I make an order for the return to the Tokyo Bar Association Library. I will defer consideration of those in evidence.

This is an application by counsel, American and Japanese, for the accused KIDO, for the return of a document, being a pocket diary of Baron HARADA. It is exhibit 3752 for identification only.

MR. TAVENNER: There is no objection.

THE PRESIDENT: The order as prayed. I did not give the number of that one. It is 1680.

This is Paper 1683, an application by counsel, American and Japanese, for the accused TOJO for the return of certain exhibits.

MR. BLEWETT: If your Honor please, the caption is not quite correct here. Of the exhibits mentioned, seven by number, 3678 was the only one in that group that was offered for identification. The others were, I understand, offered in evidence. Am I not right?

THE PRESIDENT: Do you have any objection?

I will make an order for the return of those offered for identification only, but only exhibit 3678 was offered for identification, you say, Mr. Blewett?

MR. BLEWETT: And also 281, being Pu-Yi's

"Visit to Japan."

MR. TAVENNER: I have a recollection that was introduced in evidence.

MR. BLEWETT: That is right, your Honor. I am sorry; I was mistaken.

THE PRESIDENT: I am making an order for only 3678, and will defer consideration of the balance.

MR. TAVENNER: The Constitution of the Philippines -- I think my --

THE PRESIDENT: The only one that I am allowing to go back is 3678. I understand that all the others were tendered in evidence.

MR. TAVENNER: I don't think that is correct, but in view of the fact that we disagree about it I had better check it.

THE PRESIDENT: Well, I will make an order for the return of those exhibits which have been tendered for identification only.

This is Paper 1684, an application by Mr. Logan for the withdrawal of exhibit 2773, Proceedings of the 62nd Session of the Japanese House of Representatives, which was offered for identification only.

MR. TAVENNER: I assume that is correct. I do not have a copy of that one.

THE PRESIDENT: Well, there is no objection

if it is for identification?

MR. TAVENNER: If it is for identification the order is prayed.

THE PRESIDENT: The order will be allowed when Mr. Tavenner notifies us that he is satisfied that that exhibit was tendered for identification only.

That is the lot.

(Whereupon, the proceeding was adjourned at 1328.)